

**PT 04-18**

**Tax Type: Property Tax**

**Issue: Educational Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS**

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<b>THE DEPARTMENT OF REVENUE</b>	)	
<b>OF THE STATE OF ILLINOIS</b>	)	
	)	<b>Docket No. 03-PT-0027</b>
v.	)	<b>PIN 06-04-100-006</b>
	)	<b>PIN 06-04-100-007</b>
<b>IUOE, LOCAL 318, JOINT</b>	)	<b>Tax Year 2002</b>
<b>APPRENTICESHIP &amp; TRAINING PROGRAM)</b>	)	
<b>Applicant</b>	)	

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**RECOMMENDATION FOR DISPOSITION**

Appearances: Kent Steinkamp, Special Assistant Attorney General, for the Department of Revenue of the State of Illinois; Charles Cavaness of Womick Law Firm for IUOE, Local 318, Joint Apprenticeship & Training Program.

Synopsis:

This case concerns whether property that is located in Williamson County and owned by International Union of Operating Engineers, Local 318, Joint Apprenticeship & Training Program (“applicant”) qualifies for a property tax exemption for the year 2002. The applicant alleges that the property qualifies for an exemption on the basis that it is used for educational purposes pursuant to section 15-35(c) of the Property Tax Code (“Code”) (35 ILCS 200/15-35(c)). The Department of Revenue (“Department”) denied the exemption. The applicant timely protested the denial, and an evidentiary hearing was

held. After reviewing the record, it is recommended that the Department's determination be upheld.

FINDINGS OF FACT:

1. The applicant is a not-for-profit trust that was created June 4, 1970 by the International Union of Operating Engineers Local 318 ("union") and the Egyptian Contractors Association ("contractors") for the purpose of providing training for the operating engineer apprentices and journeymen who are members of the union. (Dept. Ex. #1, 2)

2. A journeyman is a member of the union who has completed his apprenticeship. (Tr. p. 33)

3. The training concerns how to operate cranes, dozers, trackhoes, backhoes, forklifts, and other specialized heavy equipment. The training also concerns hazardous materials, safety, welding, and asphalt paving. The training is limited to skills necessary to perform work for the contractors. (Dept. Ex. #1; Tr. pp. 17-18)

4. The only activity that takes place on the applicant's property is the training of the union members. (Tr. p. 21)

5. In order to become an apprentice, an application process must be completed. (Tr. p. 13)

6. All the apprentices in the union are required to attend the applicant's classes. (Tr. p. 30)

7. An apprentice starts with 80 hours of equipment orientation that takes place in a classroom. The apprentice then receives 144 hours of additional training and 800 hours of on-the-job training each year. (Tr. pp. 13-17)

8. The apprentice program currently lasts three years. The applicant recently asked the Department of Labor to extend its apprenticeship program from three years to four years. (Tr. pp. 17, 31)

9. The four-year program will entail 260 hours of regular training and 1,000 hours of on-the-job training each year. (Tr. p. 31)

10. In order to complete the apprenticeship program, the apprentice must complete a written test and a performance test for each piece of equipment. (Tr. pp. 33-34)

11. At the end of the three-year apprenticeship program, the apprentice receives a certificate from the Department of Labor stating that he or she has successfully completed the program. (Tr. pp. 29, 32)

12. Journeymen who would like to update their skills or learn to operate more equipment may attend the applicant's classes at anytime. (Tr. pp. 18-19)

13. The applicant is not associated with a college or university. (Tr. p. 28)

14. A collective bargaining agreement between the union and contractors requires the contractors to pay to the applicant money for all of the hours worked by the union members who are covered by the agreement. The applicant is totally funded by the contractors. (Applicant's Ex. #3, p. 35; Tr. pp. 22-24)

15. No one pays the apprentices and journeymen while they receive training on the applicant's premises. (Tr. p. 39)

16. The applicant does not charge the apprentices and journeymen tuition. (Tr. pp. 15, 41)

17. Pursuant to the Declaration of Trust, the applicant has six trustees: three are named by the manager of the union and three are named by the president of the contractors' association. (Dept. Ex. #2; Tr. p. 40)

18. The applicant has three employees: two of them are trainers and one is a secretary. (Tr. pp. 10-11)

19. The applicant is exempt from the retailers' occupation tax, service occupation tax, use tax, and service use tax in Illinois pursuant to the finding of the Department made on February 8, 2002 that the applicant is organized and operated exclusively for educational purposes. (Dept. Ex. #1)

CONCLUSIONS OF LAW:

The provision of the Property Tax Code (35 ILCS 200/1-1 *et seq.*) that allows exemptions for property used for educational purposes provides in relevant part as follows:

“All property donated by the United States for school purposes, and all property of schools, not sold or leased or otherwise used with a view to profit, is exempt, whether owned by a resident or non-resident of this State or by a corporation incorporated in any state of the United States. Also exempt is:

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(c) property donated, granted, received or used for public school, college, theological seminary, university, or other educational purposes, whether held in trust or absolutely;” 35 ILCS 200/15-35(c).

It is well-established that property tax exemption provisions are strictly construed in favor of taxation. Chicago Patrolmen's Association v. Department of Revenue, 171 Ill.2d 263, 271 (1996). The party claiming the exemption has the burden of proving by clear and convincing evidence that it is entitled to the exemption, and all doubts are

resolved in favor of taxation. Id.; City of Chicago v. Department of Revenue, 147 Ill.2d 484, 491 (1992); Evangelical Hospitals Corporation v. Department of Revenue, 223 Ill.App.3d 225, 231 (2<sup>nd</sup> Dist. 1992).

The applicant contends that the property is used for educational purposes because the sole activity that takes place on the property is the training of the union members. The applicant notes that one of the factors that courts consider when analyzing this exemption is whether there is a financial benefit to the State as a result of the instruction that is provided. The applicant argues that this State benefits financially because approximately 80 to 90% of the contractors perform jobs for the State. (Tr. p. 20) The applicant claims that the training enhances the job performance of the workers, which results in the work being completed more efficiently. Because less time is needed to complete the projects, the contractors are able to submit lower bids, which reduces the cost of the construction project for the State.

The Department notes that in Coyne Electrical School v. Paschen, 12 Ill.2d 387 (1957), the Supreme Court found that in order for an institution to qualify for a school tax exemption, its course of study must: (1) fit into the general scheme of education founded by the State and supported by public taxation, and (2) substantially lessen what would otherwise be a governmental function and obligation. Coyne at 392-93. The Department contends that the applicant's instruction does not fall within the State's general scheme of education. In addition, the Department states that this case is different from Big Ten Conference, Inc. v. Department of Revenue, 312 Ill.App.3d 88 (1<sup>st</sup> Dist. 2000), where the court allowed the exemption for property used for the administration of intercollegiate

athletic programs, because that activity was actually associated with a school. In the present case, the applicant is not affiliated with a college or university.

The instant case is remarkably similar to the case of Chicago and Northeast Illinois District Council of Carpenters Apprentice and Trainee Program v. Department of Revenue, 293 Ill.App.3d 600 (1<sup>st</sup> Dist. 1997). In that case, the applicant was a not-for-profit trust that was created by a union and a group of contractors for the purpose of providing education and training for carpenters. The applicant provided a limited amount of instruction in math skills but did not teach subjects considered part of a commonly accepted educational program. The court upheld the Department's determination to deny the applicant a property tax exemption, finding that the program offered only vocational training and not courses in traditional academic subjects. The court also found that the program did not provide a course of study that substantially lessens a governmental function or obligation. In addition, the court noted that the students were primarily trained to become carpenters through on-the-job training at locations other than the applicant's facility. They were required to join the union, pay union dues, and get a job as a carpenter's apprentice with a union contractor where they were required to obtain their on-the-job training. Furthermore, that program did not lead to a high school or other type of degree or diploma, but rather a certificate from the Department of Labor stating that the student had completed the program. These were some of the relevant facts that warranted a denial of the exemption.

The general facts in that case are similar to the ones in the present case. The applicant does not offer courses in traditional academic subjects; it only offers vocational training for the purpose of preparing the union member to work for construction

contractors. Although the applicant contends that its program reduces the ultimate cost of the construction projects for the State, the applicant's course of study does not substantially lessen a governmental function or obligation. The applicant does not offer a program that the State would otherwise be required to offer in a public school. In addition, the applicant's students are union members who work for union contractors, and the majority of their training consists of on-the-job training. Furthermore, the program does not provide a degree or diploma, but rather a certificate from the Department of Labor stating that the program has been completed. As the court in Chicago and Northeast Illinois District Council found, this is not the type of program that the legislature intended to qualify for the exemption.

Recommendation:

For the foregoing reasons, it is recommended that the applicant's request for a property tax exemption for the year 2002 be denied.

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Linda Olivero  
Administrative Law Judge

Enter: July 14, 2004